

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LEE POUA YANG,

Plaintiff,

v.

Case No. 13-C-13

**DR. ENRIQUE LUY, and
PATRICIA BILLINGS, R.N.,**

Defendants.

DECISION AND ORDER

This action is before the Court on the motion of the pro se Plaintiff Lee Poua Yang (“Yang”) for appointment of counsel and the parties’ motions for extension of the deadlines for disclosure of expert witnesses. (ECF Nos. 18, 20, 23 and 25.) As the Court stated in its January 18, 2013, Decision and Order (ECF No. 6) with respect to Yang’s initial motion for appointment of counsel, although civil litigants do not have a constitutional or statutory right to appointed counsel, the Court has the discretion to recruit counsel to represent indigents in appropriate cases pursuant to 28 U.S.C.

§ 1915(e)(1).

The Court has discretion to recruit counsel to represent a litigant who is unable to afford one in a civil case. *Navejar v. Iyiola*, 718 F.3d 692, 696 (7th Cir. 2013); *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866-67 (7th Cir. 2013); *Pruitt v. Mote*, 503 F.3d 647, 653 (7th Cir. 2007). Yang has satisfied the threshold requirement for appointment of counsel because he attempted to secure representation. *Pruitt*, 503 F.3d at 654. Although denying Yang’s initial motion for appointment of counsel, the Court noted

that as this case proceeded the need for counsel might arise.

In Yang's current motion for appointment of counsel, he renews all the grounds he raised in his original motion, and indicates that he has been in the custody of Milwaukee County since September 9, 2013, and will not be released until December 12, 2013. Yang is unemployed, does not have funds to hire an attorney or expert witness to assist him, and lacks the knowledge and expertise required to litigate his Eighth Amendment deliberate indifference and state malpractice claims. At this juncture the Court concludes that given the difficulty of the case, Yang would be hard pressed to engage in the tasks that would normally attend the litigation, and there is a reasonable likelihood that the presence of counsel would make a difference in the outcome of the case. *See Navejar*, 718 F.3d at 696. In an attempt to recruit counsel for Yang, the Court contacted Attorney Aaron DeKosky ("DeKosky") who has advised the Court that he must review Yang's medical records in order to decide whether or not he will accept the case. Although Yang is currently in the custody of Milwaukee County, he may have a friend or relative who could provide DeKosky with those records.

Yang should make arrangements to provide his medical records to DeKosky no later than December 12, 2013, **and** prior to that deadline file a letter with the Court, sending a copy to opposing counsel, indicating the date by which the records will be provided to DeKosky or, if Yang is unable to provide those records, explaining why he cannot.

DeKosky's business address is 633 W. Wisconsin Ave., Suite 1900, Milwaukee, WI 53203. His phone number is (414) 277-9800; his fax is (414) 277-0189. He may also

be reached by email: adekosky@padwaylaw.net

Given the current status of the case and the circumstances described by Yang and the Defendants, the Court will stay the deadlines set by the scheduling order. After the issue of recruiting counsel for Yang has been resolved, the scheduling order will be modified.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Yang should make arrangements to provide his medical records to DeKosky no **later than December 12, 2013, and prior to that deadline** file a letter with the Court, sending a copy to opposing counsel, indicating the date by which the records will be provided to DeKosky or, if Yang is unable to provide those records, explaining why he cannot.

The deadlines set by the May 21, 2013, scheduling order (ECF No. 17) are **STAYED** until further order of the Court.

The motions for extension of time to disclose expert witnesses (ECF Nos. 20, 23, and 25) and Yang's similar request in his motion for appointment of counsel (ECF No. 18) are **MOOT** and, therefore, **DISMISSED**.

Dated at Milwaukee, Wisconsin, this 18th day of November, 2013.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge